



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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**MEMORANDUM**

**TO:** The Commission

**FROM:** Daniel A. Petalas  
Associate General Counsel for Enforcement

**BY:** Mark D. Shonkwiler *MS*  
Assistant General Counsel

Jin Lee *EL*  
Attorney

**SUBJECT:** MUR 6621 (American Hotel & Lodging Association *et al.*)  
Acceptance of Pre-Probable Cause Conciliation Agreement

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Attached is a proposed conciliation agreement that resolves the Commission's prior findings that there was reason to believe that American Hotel & Lodging Association ("AHLA") and American Hotel & Lodging Association Political Action Committee and Joori Jeon in her official capacity as treasurer ("HotelPAC") violated 2 U.S.C. §§ 441b(b)(3)(B), (C) and 441b(b)(4)(A)(i) and 11 C.F.R. § 114.5(a)(3), (4) and (g)(1) by improperly soliciting contributions from members of the Broadmoor Golf Club with respect to HotelPAC's 2011 fundraiser. See Certification, MUR 6621 (AHLA) (July 12, 2013); Certification, MUR 6621 (AHLA) (July 26, 2013).

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We believe this \_\_\_\_\_ represents a reasonable compromise and recommend that the Commission accept the conciliation agreement and close the file.

Although not addressed in the First General Counsel's Report, the Complaint and the original notification letter named AHILA's former President, Joseph A. McInerney, as an individual respondent. *See* Letter to Joseph A. McInerney, AHILA from Jeff S. Jordan, FEC (Aug. 9, 2012). Based on the available information, it appears that McInerney participated in the discussions to invite the Golf Club members and signed a letter asking them to join AHILA. The Commission is already pursuing AHILA and HotelPAC for the improper solicitations, however, and it has exercised its discretion not to pursue the Broadmoor as well. Given the admissions by AHILA and HotelPAC in their responses and this conciliation agreement, we believe the conduct alleged in the Complaint and Responses relating to McInerney in his individual capacity does not warrant additional Commission proceedings against him.<sup>1</sup> We therefore recommend that the Commission exercise its prosecutorial discretion and dismiss the matter as to McInerney. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

RECOMMENDATIONS:

1. Accept the attached conciliation agreement.
2. Dismiss the matter as to Joseph A. McInerney.
3. Approve the appropriate letter.
4. Close the file.

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<sup>1</sup> Although the statute contemplates liability for "any person" — including an individual — who fails to provide the required notices for the solicitation of contributions to a separate segregated fund, we are aware of no instance in which the Commission has actually imposed liability against an individual corporate officer for violations of 2 U.S.C. § 441b(b)(3)(B) and (C). The closest analog we have discovered is MUR 5437 (SEIU Local 250), in which the Commission found reason to believe that labor union officers violated section 441b(b)(3), but took no further action where the resulting investigation found insufficient evidence that the officers used coercion when soliciting contributions.

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